

SENATE BILL 647
CONSTITUTIONAL AMENDMENT

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SB 88/03 - JPR

2004 Regular Session
4r2721

By: **Senator Ruben**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Court Judges - Appointment and Term of Office**

3 FOR the purpose of proposing amendments to the Maryland Constitution relating to
4 the selection and tenure of circuit court judges; repealing provisions relating to
5 election of circuit court judges; requiring the Governor to fill a vacancy in the
6 office of a judge of a circuit court by appointment, subject to Senate
7 confirmation; providing for retention elections following confirmation by the
8 Senate; authorizing reappointment of a judge at the end of the judge's term;
9 altering the term of office of circuit court judges; providing certain provisions of
10 limited duration for the purpose of implementing these amendments; generally
11 relating to the selection, appointment, tenure, and term of office of judges of the
12 circuit courts; and submitting this amendment to the qualified voters of the
13 State of Maryland for their adoption or rejection.

14 BY proposing an amendment to the Maryland Constitution
15 Article IV - Judiciary Department
16 Section 3 and 5

17 BY proposing an addition to the Maryland Constitution
18 Article XVIII - Provisions of Limited Duration
19 Section 6

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, (Three-fifths of all the members elected to each of the two Houses
22 concurring), That it be proposed that the Maryland Constitution read as follows:

23 **Article IV - Judiciary Department**

24 3.

25 [Except for the Judges of the District Court, the Judges of the several Courts
26 other than the Court of Appeals or any intermediate courts of appeal shall, subject to
27 the provisions of Section 5 of this Article of the Constitution, be elected in Baltimore
28 City and in each county, by the qualified voters of the city and of each county,
29 respectively, all of the said Judges to be elected at the general election to be held on

1 the Tuesday after the first Monday in November, as now provided for in the
2 Constitution. Each of the said Judges shall hold his office for the term of fifteen years
3 from the time of his election, and until his successor is elected and qualified, or until
4 he shall have attained the age of seventy years, whichever may first happen, and be
5 reeligible thereto until he shall have attained the age of seventy years, and not after.]
6 In case of the inability of any [of said Judges] CIRCUIT COURT JUDGE to discharge
7 [his] THE JUDGE'S duties with efficiency, by reason of continued sickness, or of
8 physical or mental infirmity, it shall be in the power of the General Assembly,
9 two-thirds of the members of each House concurring, with the approval of the
10 Governor to retire said Judge from office.

11 5.

12 (A) Upon every occurrence or recurrence of a vacancy through death,
13 resignation, removal, disqualification by reason of age or otherwise, or expiration of
14 the term [of fifteen years] of any judge of a circuit court, or creation of the office of
15 any such judge, or in any other way, the Governor shall appoint, BY AND WITH THE
16 ADVICE AND CONSENT OF THE SENATE, a person duly qualified to fill said office[,
17 who shall hold the same until the election and qualification of his successor. His
18 successor shall be elected at the first biennial general election for Representatives in
19 Congress after the expiration of the term of fifteen years (if the vacancy occurred in
20 that way) or the first such general election after one year after the occurrence of the
21 vacancy in any other way than through expiration of such term. Except in case of
22 reappointment of a judge upon expiration of his term of fifteen years, no person shall
23 be appointed who will become disqualified by reason of age and thereby unable to
24 continue to hold office until the prescribed time when his successor would have been
25 elected].

26 (B) A JUDGE APPOINTED BY THE GOVERNOR MAY TAKE OFFICE UPON
27 QUALIFICATION AND BEFORE CONFIRMATION BY THE SENATE, BUT SHALL CEASE
28 TO HOLD OFFICE AT THE CLOSE OF THE REGULAR ANNUAL SESSION OF THE
29 GENERAL ASSEMBLY NEXT FOLLOWING THE JUDGE'S APPOINTMENT OR DURING
30 WHICH THE JUDGE SHALL HAVE BEEN APPOINTED BY THE GOVERNOR, IF THE
31 SENATE SHALL NOT HAVE CONFIRMED THE APPOINTMENT BEFORE THEN.

32 (C) IF THE SENATE CONFIRMS THE APPOINTMENT, THE CONTINUANCE IN
33 OFFICE OF THE JUDGE IS THEN SUBJECT TO APPROVAL OR REJECTION BY THE
34 REGISTERED VOTERS OF THE CITY OR COUNTY FROM WHICH THE JUDGE WAS
35 APPOINTED AT THE NEXT GENERAL ELECTION FOLLOWING THE EXPIRATION OF ONE
36 YEAR FROM THE DATE OF THE APPOINTMENT.

37 (D) THE APPROVAL OR REJECTION BY THE REGISTERED VOTERS OF A JUDGE
38 SHALL BE A VOTE FOR THE JUDGE'S RETENTION IN OFFICE FOR A TERM OF TEN
39 YEARS OR FOR THE JUDGE'S REMOVAL. THE JUDGE'S NAME SHALL BE ON THE
40 APPROPRIATE BALLOT, WITHOUT OPPOSITION, AND THE VOTERS SHALL VOTE YES
41 OR NO FOR THE JUDGE'S RETENTION IN OFFICE. IF THE VOTERS REJECT THE

1 RETENTION IN OFFICE OF A JUDGE, OR IF THE VOTE IS TIED, THE OFFICE BECOMES
2 VACANT TEN DAYS AFTER CERTIFICATION OF THE ELECTION RETURNS.

3 (E) EACH JUDGE APPOINTED BY THE GOVERNOR, CONFIRMED BY THE
4 SENATE, AND APPROVED BY THE VOTERS SHALL HOLD THE OFFICE FOR A TERM OF
5 TEN YEARS OR UNTIL THE JUDGE ATTAINS THE AGE OF SEVENTY YEARS,
6 WHICHEVER OCCURS FIRST.

7 (F) IF THE TEN-YEAR TERM OF A JUDGE EXPIRES BEFORE THAT JUDGE HAS
8 ATTAINED THE AGE OF SEVENTY YEARS, THAT JUDGE MAY BE REAPPOINTED BY THE
9 GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, AND SUBJECT
10 TO APPROVAL OR REJECTION BY THE VOTERS, IN ACCORDANCE WITH SUBSECTIONS
11 (A) THROUGH (D) OF THIS SECTION, FOR ANOTHER TEN-YEAR TERM OR UNTIL THE
12 JUDGE ATTAINS THE AGE OF SEVENTY YEARS, WHICHEVER OCCURS FIRST.

13 **Article XVIII - Provisions of Limited Duration**

14 6.

15 (A) FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO ARTICLE IV
16 OF THIS CONSTITUTION DEALING WITH THE SELECTION AND TENURE OF CIRCUIT
17 COURT JUDGES, THE FOLLOWING PROVISIONS SHALL GOVERN. IN ACCORDANCE
18 WITH ARTICLE XIV, § 1A OF THIS CONSTITUTION, THIS SECTION SHALL EXPIRE WHEN
19 ALL THE JUDGES OF THE CIRCUIT COURTS HAVE COMPLETED ALL OF THE TERMS
20 FOR WHICH THE JUDGES ARE CONTINUED IN OFFICE UNDER SUBSECTIONS (B) AND
21 (C) OF THIS SECTION OR HAVE VACATED THEIR OFFICES FOR ANY REASON.

22 (B) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN ELECTED
23 TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE JUDGE DIES,
24 RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL CONTINUE IN
25 OFFICE UNTIL THE END OF THE ELECTED TERM OR UNTIL THE JUDGE ATTAINS THE
26 AGE OF SEVENTY, WHICHEVER OCCURS FIRST. CONTINUANCE OF THE JUDGE IN
27 OFFICE THEN IS SUBJECT TO THE PROVISIONS OF ARTICLE IV, § 5 OF THIS
28 CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE AFTER
29 ATTAINING THE AGE OF SEVENTY.

30 (C) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE ON THE EFFECTIVE
31 DATE OF THESE AMENDMENTS, BUT WHO HAS NOT BEEN ELECTED TO THAT OFFICE
32 BY THE VOTERS, SHALL, WITHIN 15 DAYS AFTER THE EFFECTIVE DATE OF THESE
33 AMENDMENTS, BE REAPPOINTED TO THAT OFFICE. CONTINUANCE OF THE JUDGE IN
34 OFFICE THEN IS SUBJECT TO THE PROVISIONS OF ARTICLE IV, § 5 OF THIS
35 CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE AFTER
36 ATTAINING THE AGE OF SEVENTY.

37 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
38 determines that the amendment to the Maryland Constitution proposed by this Act
39 affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the
40 Maryland Constitution concerning local approval of constitutional amendments do
41 not apply.

1 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
2 proposed as an amendment to the Maryland Constitution shall be submitted to the
3 legal and qualified voters of this State at the next general election to be held in
4 November, 2004 for their adoption or rejection in pursuance of directions contained in
5 Article XIV of the Maryland Constitution. At that general election, the vote on this
6 proposed amendment to the Constitution shall be by ballot, and upon each ballot
7 there shall be printed the words "For the Constitutional Amendment" and "Against
8 the Constitutional Amendment," as now provided by law. Immediately after the
9 election, all returns shall be made to the Governor of the vote for and against the
10 proposed amendment, as directed by Article XIV of the Maryland Constitution, and
11 further proceedings had in accordance with Article XIV.